Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Devore, et al.	Analyst: Angela Raygoza	Bill Number: AB 1759	
Related Bills: See Prior Analysis	Telephone: 845-7814	Amended Date: August 4 & August 14, 2008	
	Attorney: Patrick Kusiak	Sponsor:	

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/2007 Calendar Year Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura County Wildfires and May, June, and July 2008 Wildfires in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ________________.

__X__ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ________________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 19, 2008, STILL APPLIES.

____ OTHER – See comments below.

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of wildfires that occurred in areas of California, as specified, during 2007 and 2008.

SUMMARY OF AMENDMENTS

The August 4, 2008, amendments would add the wildfires that occurred in May and June 2008 in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, and Trinity counties, and the wildfires that occurred in July 2008 in Santa Barbara County to the current list of specified disasters under the Personal Income Tax (PIT) Law, and the Corporation Tax Law (CTL).

As a result of the August 4, 2008, amendments, the “Program Background,” “This Bill,” and “Economic Impact” discussions, as provided in the department’s analysis of the bill as amended June 19, 2008, have been revised. Except for these amended discussions provided in this analysis, the remainder of the department's analysis of the bill as amended June 19, 2008, still applies.

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	8/25/08
____ N	____ OUA	__X__ PENDING		

The August 14, 2008, amendments will not be addressed in this analysis, as they do not impact the department or state income tax revenue.

PROGRAM BACKGROUND

Governor Arnold Schwarzenegger proclaimed on September 15 and October 21, 2007, a state emergency declaring wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties to be a state disaster. President George W. Bush declared these wildfires as a federal disaster.

Governor Arnold Schwarzenegger proclaimed in May, June, and July 2008, a state of emergency declaring wildfires that occurred in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties to be a state disaster. On June 28, and July 4, 2008, President George W. Bush declared these same counties to be a federal emergency.

ANALYSIS

<u>THIS BILL</u>

This bill would add the wildfires that occurred on September 15 and October 21, 2007, in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties and the wildfires that occurred in May, June, and July 2008, in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties, to the list of specified disasters.

This bill would allow special excess loss carry forward treatment for up to 15 taxable years for losses sustained as a result of the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties during calendar year 2007. In addition, the wildfires that occurred in May, June, and July 2008, in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity Counties would be eligible for special excess loss carry forward treatment. The same carry forward rule applies to individual nonbusiness losses if the total losses for the year exceed 10% of the individual's federal adjusted gross income.

For federally declared emergencies, the taxpayer may either take the deduction on the current year return or may file an amended return for the prior year and then carry forward unused losses for up to 15 years. Taxpayers electing to take a deduction on the prior-year return may do so through the final return filing date for the current year. For the 2007 wildfires, the 2006 deduction would be available through April 15, 2008; under this bill, a taxpayer could take the deduction until October 15, 2008.

ECONOMIC IMPACT

Revenue Estimate

The bill would have the following revenue impact:

Revenue Analysis for AB 1759 As amended August 4, 2008 Assumes Enactment after June 30, 2008				
Fiscal Year	2007-08	2008-09	2009-10	Total for three years
Disaster Relief	Loss < $250,000	Gain < $150,000	Gain < $150,000	Loss < $150,000

This analysis does not consider any possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

2007 Southern California Wildfires

The most current data from the Office of Emergency Services (OES) indicates a total of 2,180 structures were destroyed and 482 were damaged as a result of the October 2007 Southern California Wildfires (total structures = 2,662). Research conducted suggests approximately $1.6 billion of insured property losses were sustained as a result of the targeted wildfires and another $400 million was uninsured for a total of $2 billion in damages. It is estimated that 90% of uninsured losses would exceed the minimum adjusted gross income threshold resulting in total casualty loss deduction of $360 million ($400 million x 90% = $360 million). The average affected taxpayer would have a potential casualty loss of approximately $135,000 ($360 million ÷ $2,662 structures).

Current California tax law allows taxpayers with fire losses to amend their 2006 tax returns until April 15, 2008; this bill extends the filing period until October 15, 2008. It is likely that most taxpayers affected by the fires will have filed an amended return claiming their fire losses by April 15th to receive an accelerated refund.

Based on expectations regarding taxpayer filing behavior, it is assumed that 1% of the value of casualty losses would be filed on an amended 2006 return and that one-half of those losses could be used to offset reported income. The revenue loss accrued to 2007-08 would be negligible, less than $250,000 ($360 million x .01 x .50 x .09 marginal rate = $162,000.) Because these losses were used on the amended 2006 return, they would not be available to offset income in later years. Therefore, for 2008-09 and 2009-10, there would be insignificant revenue gains of less than $150,000 in each year, resulting in an insignificant net revenue loss for the three-year period of less than $150,000.

Currently, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the fires is estimated to be $135,000, it is unlikely that many taxpayers will have losses remaining after ten years. Therefore, the long-term revenue effect of the additional five years of carryover is assumed to be insignificant.

2008 California Wildfires

Current data indicates the 2008 wildfires destroyed approximately 200 taxpayer properties. It is estimated that the average value of these properties is $400,000 and that 20% of this value is uninsured, for a total of $16,000,000 (200 properties destroyed x $400,000 avg. value x .20 uninsured losses). It is assumed that 90% or $7.2 million of these losses exceed the AGI threshold and that taxpayers could claim 50% of these losses in one year ($16,000,000 x .90 x .50 = $7.2 million). Applying a 9% tax rate, the total amount that could be refunded is $648,000 ($7,200,000 x .09 = $648,000). Using a 1% assumption to estimate those who would delay the filing of an amended return beyond April 15, 2009, the revenue effects would be approximately $6,480 ($648,000 x .01 = $6,480). The extended carryover period is assumed to have no added revenue effect given the small amount of losses eligible for carryover.

LEGISLATIVE STAFF CONTACT

Legislative Analyst	Revenue Manager	Asst. Legislative Director
Angela Raygoza	Rebecca Schlussler	Patrice Gau-Johnson
(916) 845-7814	(916) 845-5986	(916) 845-5521
angela.raygoza@ftb.ca.gov	rebecca.schlussler@ftb.ca.gov	patrice.gau-johnson@ftb.ca.gov